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Alberta LABOUR NEWS

PUBLISHED BY ALBERTA LABOUR

JUN 23 1988

JANUARY 1988

Role Of Communications In New Labour Code

The new Alberta Labour Code will set out a comprehensive basis for the employee-employer relationship in Alberta, reflecting the recommendations contained in the Final Report of the Labour Legislation Review Committee.

Among these recommendations were those that dealt with the subject of communication between employees and employers, and with the education and development of reliable information upon which the parties can reasonably base their relationship.

During the public input process conducted by the Legislation Review Committee, employees and employers recognized that effective labour relations evolves, fundamentally, from ongoing and frank communication which fosters respect and creates a commonality of interest.

"Since this is well recognized among stakeholders, good communications already exists between the majority of employers and employees in Alberta," said Dr. Ian Reid, Minister of Labour.

It is essential to the labour process that this continue.

"Communications is a well-understood component of the process, and, by its nature, should be a voluntary component," Dr. Reid said.

The new Labour Code sets out the importance of communications, in the broad sense in which it was intended, while reinforcing government's role in providing advisory support.

ENHANCED COMMUNICATIONS

For example, the Code would permit the Minister of Labour to establish one or more multi-sector advisory councils designed to generate a reliable information base that would help facilitate and enhance communications among all stakeholders in labour matters.



The Minister also may convene a conference of business, trade union, and academic community representatives, among others. Such a conference, or round table, would develop a general understanding of the province's economic circumstances and factors critical to continued economic growth.

"Such initiatives would help facilitate a general understanding among all parties of mutually significant aspects of the economy," said Dr. Reid.

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UNIVERSITY OF ALBERTA

MAY 20 1988

GOVERNMENT
PUBLICATIONS

**Enhanced
Mediation,
Bridging
Agreements
Among
Upcoming
Topics**

Enhanced mediation, bridging agreements and mediation boards are among some of the significant Labour Relations subjects to be addressed in future issues of Labour News.

The extensive nature of the public input received on these and other related subjects is resulting in an ongoing comprehensive review of these submissions.

No General Expansion Of Labour Relations Board Role

Concerns have been expressed during public input into the new Labour Code about what has been perceived as increased powers of the Labour Relations Board.

This is not the case.

A recommendation of the Labour Legislation Review Committee is that the Board's

operations as a tribunal be streamlined. The major thrust of this streamlining will emphasize a new informal process designed to resolve some labour disputes in a more expeditious and potentially less-costly fashion. (See article on Board Hearings, next page.)

Beyond certain specific matters, there will be no general expansion of the Board's role.

A Guide To Your Labour Code

The first issue of Labour News discussed Employment Standards related issues. This second issue covers a number of Labour Relations Board related issues.

As the process of public input evolved, specific sections of the Labour Code requiring clarification and changes have been identified.

As a guide to the Labour Code, Alberta Labour News will deal with many of these issues in an effort to clarify the intent of legislation and, more importantly, indicate where changes will be made. Some of the misconceptions have been created by confusion in the wording. In these cases, re-drafting of the section or clause will take place to clarify meaning and clear up misinterpretations.

The first issue of Labour News discussed Employment Standards related issues. This second issue covers a number of Labour Relations Board related issues; others will be addressed in a future report.

1. THE BOARD'S DELEGATING AUTHORITY

Concern was expressed with a provision of the Code which allows the Labour Relations



Board to delegate authority, to its officers, to conduct hearings when it is alleged that there has been a failure to comply with any matter under the Board's authority.

This was not intended.

The specific clause will be reworded to reflect that the Board will conduct hearings which it considers necessary, in keeping with its current authority. The Board, or its officers, will conduct inquiries or investigations which the Board considers necessary.

Labour Relation Board Hearings

Parties involved in an application or dispute will have a number of informal and formal options available.

By allowing the Labour Relations Board more flexibility in conducting hearings under the new Labour Code, the Board will have more options available to resolve labour disputes more quickly and with potentially less cost.

This is consistent with the recommendation of the Final Report of the Labour Legislation Review Committee, which calls for the operation of the Board as a tribunal to be streamlined.

Some confusion does exist about the process behind these new options. Moreover, assumptions have been made that all disputes are required to go through each level of hearing.

This is not so.

The Process

Parties involved in an application or dispute will have a number of informal and formal options available.

For example, the certification and decertification process calls for a secret ballot vote to determine the employees' wishes as soon as

possible after the Board has accepted the application.

After the vote, the Board will consider any matters brought before it in the most appropriate process.

On the other hand, some applications, such as emergencies, will go straight to a formal hearing. "Cease and Desist" applications in a strike or lockout are an example. These matters will continue to be heard, on short notice, by three- or five-member balanced panels.

Informal Procedure

Some cases are best resolved by an informal procedure. Under the new Code, the Chairman, considering the position of the parties, may refer the issue to one or more members of the Board for the informal process. The aim is to reach a settlement quickly and effectively. If settlement efforts succeed, the matter will end.

Formal Procedure

Where the informal process would appear at the outset unlikely to result in a settlement, the Board will refer the matter directly to a three- or five-person Board for hearing.

— Issues Relating To The Labour Relations Board

2. SECRET BALLOTS

There have been misconceptions under these sections of the Code that certain ballots will not be kept secret.

This is not the case.

The Code calls for the Labour Relations Board to supervise, conduct or require a large number of different votes, all of which will be by secret ballot. This wording will be clarified.

3. EMPLOYER REPRESENTATION

A concern was expressed that this clause in the Code means a representative from every employer.

This is not the case.

The clause calls for "representation from the employers or the local trade union," meaning that the employers or local trade union, collectively, put forward at least one person, which is not an onerous responsibility.

4. CHALLENGING EMPLOYER'S ORGANIZATION

Concern was expressed over a clause in the Code which provides that a decision, order,

directive, declaration, ruling or proceeding of an employers' organization can be reviewed in the Court of Queen's Bench.

This clause will be deleted.

5. CERTIFICATION AND DECERTIFICATION VOTES

There have been some misconceptions, under this section of the Code, that a majority of the ballots cast by employees in a bargaining unit, during a representation vote for certification or decertification means 40 percent support.

This is not the case.

A majority means 50 percent plus one of those who vote. This is the legal and accepted definition of "majority."

To make an application for certification or decertification, the Labour Relations Board must be satisfied that such an application is supported by at least 40 percent of the persons affected.

Once the Board is satisfied with respect to the 40 percent support, a secret ballot vote will be conducted by the Board in which a majority (50 percent plus one) must indicate their support for certification or decertification.

The Code calls for the Labour Relations Board to supervise, conduct or require a large number of different votes, all of which would be by secret ballot.

— More Flexibility, Less Costly Proceedings

Formal hearings are similar to court proceedings. Parties have the right to be represented; evidence is usually given under oath, and witnesses may be called and cross-examined.

Encourages Settlements

Informal hearings should be quicker and less expensive. Settlements arrived at informally can lead to better labour relations. The Code, by allowing this option, tries to encourage settlement while preserving full due process through the appeal to a formal panel of the Labour Relations Board.

There is no intention in the Legislation to allow Board officers to conduct hearings. Modified wording in the Code will clarify this.

The Code will not limit access to the Courts. Parties will remain as free as they were under the Labour Relations Act to seek judicial review of the Board's activity.

The only limitation on access to the Courts is that a recommendation by a panel member, as described in the informal process, must first go to a balanced Board for hearing before proceeding to the Courts. The Board, sitting for-

mally, would hear the arguments and evidence. Without this, the Court would have little information on which to assess the merits of the case. The Board retains the full reconsideration power it now exercises.

The introduction of these new options will not result in a more lengthy process. Rather, many cases can be resolved quickly by an informal hearing. Certification and decertification applications can be processed so the employee vote is held quickly and the period of uncertainty reduced.

While reluctant parties may attempt to delay proceedings, the Code encourages a positive, problem-solving attitude to dispute resolution. For the large majority of parties, the new options will lead to a quicker and less costly way of resolving their labour relations problems.

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Role Of Communications

(from page 1)

'MODEL' RESOURCE PEOPLE

"I have already identified people in model organizations, who have volunteered to act as resource people when communications utterly fail between parties," said Dr. Reid. "They would likely come from the same industry, but would be removed from any direct interest in the relationship between the parties."

Even so, such a measure would be taken only if absolutely necessary, said Dr. Reid.

HANDS-OFF APPROACH

Dr. Reid said this approach is consistent with the final report of the Labour Legislation Review Committee, which notes that:

Albertans support the principle that ongoing or direct government involvement in the employee-employer relationship must be minimized. Employees and employers are best able to determine the nature of their relationship in the context of the market environment of the particular enterprise.

Employment Standards: Farm and Ranch Work

There have been concerns expressed that existing Legislation applicable to employees and employers in the farming and ranching community will be changed significantly by the new Labour Code.

This is not the case.

Consideration had been given to including the exemptions for farm and ranch workers in an exemption regulation. However, to avoid any misunderstandings, these exemptions will be specifically identified in the Legislation.

Employees and employers in the farming and ranching industry will continue to be exempted from specific provisions of the Bill, including hours of work and overtime, vacation pay and general holiday pay.

Employment Standards Issues Review

The inaugural issue of Labour News dealt with a number of significant Employment Standards related issues including:

- Traditional Employee Benefits (The "Christmas Turkey" clause)
- Hours of Work and Overtime Pay
- Compressed Work Week
- Notice of Termination or Payment in Place of Notice of Termination
- Notice of Termination for Redundancy or Economic Change
- Employment Standards Officers Authority
- Rest Periods
- Payment of Wages
- Vacations

Additional copies of this inaugural issue are available on request by contacting the Editor, Alberta Labour News, Communications Branch, 10th Floor, 10808 99 Avenue, Edmonton, Alberta T5K 0G5

IF UNDELIVERED RETURN TO:

The Editor, Alberta Labour News,
Communications Branch,
10th Floor, 10808 99 Avenue,
Edmonton, Alberta
T5K 0G5

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